

Food and Nutrition Service, USDA

§ 245.5

ected to provide free milk, or is a commodity-only school.

(Sec. 8, Pub. L. 95-627, 92 Stat. 3623 (42 U.S.C. 1758); sec. 5, Pub. L. 95-627, 92 Stat. 3619 (42 U.S.C. 1772); 42 U.S.C. 1785, 1766, 1772, 1773(e), sec. 203, Pub. L. 96-499, 94 Stat. 2599; secs. 807 and 808, Pub. L. 97-35, 95 Stat. 521-535, 42 U.S.C. 1772, 1784, 1760; sec. 803, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1758))

[Amdt. 8, 40 FR 57207, Dec. 8, 1975; 40 FR 58281, Dec. 16, 1975, as amended by Amdt. 10, 41 FR 28783, July 13, 1976; Amdt. 13, 44 FR 33049, June 8, 1979; 47 FR 31852, July 23, 1982]

§ 245.4 Exceptions for Puerto Rico and the Virgin Islands.

Because the State agencies of Puerto Rico and the Virgin Islands provide free meals or milk to all children in schools under their jurisdiction, regardless of the economic need of the child's family, they are not required to make individual eligibility determinations or publicly announce eligibility criteria. Instead, such State agencies may use a statistical survey to determine the number of children eligible for free or reduced price meals and milk on which a percentage factor for the withdrawal of special cash assistance funds will be developed subject to the following conditions:

(a) State agencies shall conduct a statistical survey once every three years in accordance with the standards provided by FNS;

(b) State agencies shall submit the survey design to FNS for approval before proceeding with the survey;

(c) State agencies shall conduct the survey and develop the factor for withdrawal between July 1 and December 31 of the first school year of the three-year period;

(d) State agencies shall submit the results of the survey and the factor for fund withdrawal to FNS for approval before any reimbursement may be received under that factor;

(e) State agencies shall keep all material relating to the conduct of the survey and determination of the factor for fund withdrawal in accordance with the record retention requirements in § 210.8(e)(14) of this chapter;

(f) Until the results of the triennial statistical survey are available, the factor for fund withdrawal will be based on the most recently established

percentages. The Department shall make retroactive adjustments to the States' Letter of Credit, if appropriate, for the year of the survey;

(g) If any school in these States wishes to charge a student for meals, the State agency, School Food Authority and school shall comply with all the applicable provisions of this part and parts 210, 215 and 220 of this chapter.

(Sec. 9, Pub. L. 95-166, 91 Stat. 1336 (42 U.S.C. 1759a); secs. 807 and 808, Pub. L. 97-35, 95 Stat. 521-535, 42 U.S.C. 1772, 1784, 1760; 44 U.S.C. 3506)

[Amdt. 18, 45 FR 52771, Aug. 8, 1980, as amended at 46 FR 51366, Oct. 20, 1981; 47 FR 746, Jan. 7, 1982]

§ 245.5 Public announcement of the eligibility criteria.

(a) After the State agency, or FNSRO where applicable, notifies the school food authority that its criteria for determining the eligibility of children for free and reduced price meals and for free milk have been approved, the school food authority shall publicly announce such criteria: *Provided however*, that no such public announcement shall be required for boarding schools, residential child care institutions (see § 210.2 of this chapter, definition of *Schools*), or a school which includes food service fees in its tuition, where all attending children are provided the same meals or milk. Such announcements shall be made at the beginning of each school year or, if notice of approval is given thereafter, within 10 days after the notice is received. The public announcement of such criteria, as a minimum, shall include the following:

(1) Except as provided in § 245.6(b), a letter or notice and application distributed on or about the beginning of each school year, to the parents of all children in attendance at school. The letter or notice shall contain the following information:

(i) In schools participating in a meal service program, the eligibility criteria for *reduced price* benefits with an explanation that households with incomes less than or equal to the reduced price criteria would be eligible for either free or reduced price meals, or in schools participating in the free milk option,

§ 245.6

the eligibility criteria for *free* milk benefits;

(ii) How a household may make application for free or reduced price meals or for free milk for its children;

(iii) An explanation that an application for free or reduced price benefits cannot be approved unless it contains complete "documentation" as defined in § 245.2(a-4)(1)(i);

(iv) An explanation that households with children who are members of currently certified food stamp, FDPIR or TANF households may submit applications for these children with the abbreviated information described in § 245.2(a-4)(1)(ii);

(v) An explanation that the information on the application may be verified at any time during the school year;

(vi) An explanation that households receiving free or reduced price benefits must notify school officials during the school year of any decreases in household size and any increases in income of over \$50 per month or \$600 per year (or a lesser amount if established by the State) or, in the case of households that provided a food stamp or TANF case number or a FDPIR case number or other FDPIR identifier to establish eligibility for free meals or free milk for a child, of any termination of benefits for such children under the Food Stamp, FDPIR or TANF Programs.

(vii) How a household may apply for benefits at any time during the school year as circumstances change;

(viii) A statement to the effect that children having parents or guardians who become unemployed are eligible for free or reduced price meals or for free milk during the period of unemployment, *Provided*, that the loss of income causes the household income during the period of unemployment to be within the eligibility criteria;

(ix) A statement to the effect that in certain cases foster children are eligible for free or reduced price meals or free milk regardless of the income of the household with whom they reside and that households wishing to apply for such benefits for foster children should contact the School Food Authority;

(x) The statement: "In the operation of child feeding programs, no child will be discriminated against because of

7 CFR Ch. II (1-1-05 Edition)

race, sex, color, national origin, age or disability;" and

(xi) How a household may appeal the decision of the School Food Authority with respect to the application under the hearing procedure set forth in § 245.7. The letter or notice shall be accompanied by a copy of the application form required under § 245.6.

(2) On or about the beginning of each school year, a public release, containing the same information supplied to parents, and including both free and reduced price eligibility criteria shall be provided to the informational media, the local unemployment office, and to any major employers contemplating large layoffs in the area from which the school draws its attendance.

(b) Copies of the public release shall be made available upon request to any interested persons. Any subsequent changes in a school's eligibility criteria during the school year shall be publicly announced in the same manner as the original criteria were announced.

(Sec. 803, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1758); Pub. L. 79-396, 60 Stat. 231 (42 U.S.C. 1751); Pub. L. 89-642, 80 Stat. 885-880 (42 U.S.C. 1773); Pub. L. 91-248, 84 Stat. 207 (42 U.S.C. 1759))

[Amdt. 8, 40 FR 57207, Dec. 8, 1975, as amended by Amdt. 10, 41 FR 28783, July 13, 1976; 47 FR 31852, 31853, July 23, 1982; Amdt. 24, 48 FR 19355, Apr. 29, 1983; 49 FR 26034, June 26, 1984; 52 FR 19275, May 22, 1987; 64 FR 50744, Sept. 20, 1999; 64 FR 72472, Dec. 28, 1999; 66 FR 48328, Sept. 20, 2001; 68 FR 53489, Sept. 11, 2003]

§ 245.6 Certification of children for free and reduced price meals and free milk.

(a) Each School Food Authority of a school participating in the National School Lunch Program, School Breakfast Program or Special Milk Program or of a commodity only school shall provide supplies of a form for use by families in making application for free or reduced price meals or free milk for their children. The application shall be clear and simple in design and the information requested thereon shall be limited to that required to demonstrate that the family does, or does not, meet the eligibility criteria for free or reduced price meals, respectively, or for free milk, issued by the